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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,840	03/23/2001	Christian Aasland	ROC920000203US1	6911

7590

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EXAMINER

PORTKA, GARY J

ART UNIT

PAPER NUMBER

2188

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/816,840

Applicant(s)

AASLAND, CHRISTIAN

Examiner

Gary J Portka

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-25 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nemes, U.S. Patent 5,893,120.
4. As to claims 1, 11, and 16, Nemes discloses a method and apparatus (Fig. 1, 3, and 4) including creating an active window table (hash table, including the linked list chains, see col. 5 lines 15-57), identifying media blocks (records) in the table that have expired (38, Fig. 3), determining if any identified block is the oldest in the set (52, Fig. 4), removing identified blocks from the table (42, Fig. 3, 55, Fig. 4), updating the table to indicate a new oldest media block (54, Fig. 4). See also Abstract, and col. 6 line 5-34.
5. As to claims 2, 12, and 17, identified blocks are added to a pool for reuse (see col. 6 lines 35-39).
6. As to claims 3 and 18, the procedure of Nemes may be considered a data backup program as recited (see col. 4 lines 45-48).
7. As to claims 4, 13, and 19, the steps are repeated as recited.
8. As to claims 5 and 20, the expiration date as recited is disclosed (see col. 6 lines 5-11).

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9. As to claims 6, 14, and 21, at least media block, reference block, and expiration date identifiers must be available in the table.

10. As to claims 7, 15, and 22, since the linked list is updated to point to the proper next block in the sequence, the limitation of media block sequence identifier is met.

11. As to claims 8, 9, 23, and 24, any new data stored into a media block may be considered an additional block stored into a most recent media block.

12. As to claims 10 and 25, any amount of data requiring more records for storage retrieves them from the pool as recited (see col. 6 lines 39-45).

### ***Response to Arguments***

13. Applicant's arguments filed December 15, 2003 have been fully considered but they are not persuasive. Applicant argues that the hash table of Nemes is not similar to the claimed active window table. However, Applicant's arguments regard contents and functions of the table not supported by the claim language, and Examiner therefore disagrees. The active window table is more precisely seen as the hash table plus the external chains (i.e., linked lists), which are intrinsically a part of the table. This table is used to monitor the media blocks to the extent recited. Expired data blocks are identified as per Fig. 3. The reference block is seen as the first element in a linked list (col. 6 lines 29-32) which is obviously the oldest since the list is built from the beginning.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J Portka whose telephone number is (703) 305-4033. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (703) 306-2903. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-3900.

Gary J Portka  
Primary Examiner  
Art Unit 2188

January 20, 2004

A handwritten signature in cursive script, appearing to read "Gary J Portka", written in black ink.